

Effective 5/10/2016

53-13-106.12 Law enforcement actions exceeding jurisdiction over federal land -- Procedure for determination and legal recourse.

- (1) As used in this section:
 - (a) "Bureau" means the Bureau of Land Management, within the department.
 - (b) "Department" means the United States Department of the Interior.
 - (c) "Jurisdictional authorization" means a federal law, or a rule or regulation adopted by the department or the bureau, that:
 - (i) relates to federal land administered by the bureau; and
 - (ii) has a logical nexus with a designated purpose of the federal land in question.
- (2) The chief executive officer of a political subdivision or a county sheriff may, in accordance with Subsection (3), determine that action of a law enforcement official of the bureau exceeds the bureau's jurisdictional authorization.
- (3) In evaluating whether the action described in Subsection (2) exceeds the bureau's jurisdictional authorization, the chief executive officer of a political subdivision or a county sheriff may consider:
 - (a) the nature and seriousness of the action of the bureau's law enforcement official;
 - (b) the nature of the bureau's jurisdictional authorization;
 - (c) the policies, plans, and positions of the political subdivision and county sheriff in the affected county that are relevant to action taken by a law enforcement official of the bureau; and
 - (d) the extent and nature of any communications between the bureau, the political subdivision, and the county sheriff regarding:
 - (i) the actions of the bureau's law enforcement official;
 - (ii) the political subdivision's and county sheriff's policies, plans, and positions; or
 - (iii) the terms and conditions of an agreement entered into and described in Section 53-13-106.9.
- (4) If, after consulting with the governor and the attorney general, the chief executive officer of a political subdivision or a county sheriff makes the determination described in Subsection (2), the chief executive officer or county sheriff shall:
 - (a) in accordance with Subsection (5), serve notice of the determination on the bureau personally or by certified mail; and
 - (b) provide a copy of the notice described in Subsection (4)(a) to the governor, the attorney general, the state's congressional delegation, and the head of the department.
- (5) The notice described in Subsection (4) shall include:
 - (a) a detailed explanation of the basis for determining that the actions of a law enforcement official of the bureau exceed the bureau's jurisdictional authority;
 - (b) a demand that the bureau and the department cease repetition of the law enforcement official's actions, and conform the official's future actions to the bureau's jurisdictional authority; and
 - (c) a specific date, no less than 30 days after the day on which the notice is served, by which time the bureau and the department shall:
 - (i) ensure that the bureau's law enforcement official keeps the law enforcement official's actions within the limits of the bureau's jurisdictional authority; or
 - (ii) provide the chief executive officer or county sheriff described in Subsection (4) with a plan for ensuring that the bureau's law enforcement official's actions will be kept within the limits of the bureau's jurisdictional authority.
- (6) The chief executive officer of a political subdivision or a county sheriff may agree to a plan described in Subsection (5)(c)(ii).

- (7)
- (a) If, after the notice described in Subsections (4) and (5) is served, the bureau or the department does not respond by the date described in Subsection (5)(c) or otherwise indicates that the bureau or department is unwilling to comply with the demands described in Subsections (5)(b) and (c), the chief executive officer or county sheriff may, after consultation with the county attorney, the governor, and the attorney general, pursue all available legal remedies.
 - (b) In seeking any emergency injunction against the actions of a law enforcement official of the bureau that exceed the bureau's jurisdictional authority, a chief executive officer of a political subdivision or a county sheriff shall attempt, to the extent possible, to coordinate with the governor, the attorney general, and the department.

Enacted by Chapter 383, 2016 General Session